

**Before the
Federal Communications Commission
Washington, D.C. 20554**

Facility ID# 77483

Released: September 12, 2013

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission's Rules,¹ to Ion Media Hawaii License, Inc., licensee of DTV educational broadcast station KXPO-TV in Honolulu, Hawaii. Pursuant to Section 1.89(a) of the Rules, issuance of this Notice does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violation noted herein.²

2. On September 3, 2013, an agent of the Enforcement Bureau's Honolulu Office monitored DTV broadcast station KXPO-TV, channel 66-4, located in Honolulu, Hawaii, and observed the following violation:

47 C.F.R. § 11.61(a)(1)(i): “Required Monthly Tests of the EAS header codes, Attention Signal, Test Script and EOM code...must be transmitted within 60 minutes of receipt by EAS Participants in an EAS Local Area or State.” The agent found that KXPO-TV did not retransmit the audio script (the video crawl was observed) of the required monthly test issued by Hawaii State Civil Defense on September 3, 2013 on subchannel 4.

¹47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

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3. As the nation's emergency warning system, the Emergency Alert System is critical to public safety, and we recognize the vital role that broadcasters play in ensuring its success. The Commission takes seriously any violations of the Rules implementing the EAS and expects full compliance from its regulatees.

4. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,³ and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, KXPO-TV, must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.⁴

5. In accordance with Section 1.16 of the Commission's Rules, we direct Ion Media Hawaii License, Inc., to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Ion Media Hawaii License, Inc., with personal knowledge of the representations provided in Ion Media Hawaii License, Inc.'s response, verifying the truth and accuracy of the information therein,⁵ and confirming that all of the information requested by this Notice which is in the licensee's possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.⁶

6. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission
Honolulu Office
P.O. Box 971030
Waipahu, Hawaii 96797-1030

³ 47 U.S.C. § 308(b).

⁴ 47 C.F.R. § 1.89(c).

⁵Section 1.16 of the Commission's Rules provides that "[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'." 47 C.F.R. § 1.16.

⁶18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

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7. This Notice shall be sent to Ion Media Hawaii License, Inc., at its address of record.
8. The Privacy Act of 1974⁷ requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

Ryan Hagihara
Resident Agent
Honolulu Office
Western Region
Enforcement Bureau

⁷ P.L. 93-579, 5 U.S.C. § 552a(e)(3).